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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,209	11/12/2003	Tieyu Zheng	30320/16220	5999
4743	7590	11/30/2005	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			ULLAH, AKM E	
			ART UNIT	PAPER NUMBER
			2874	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary

Application No.

10/706,209

Applicant(s)

ZHENG, TIEYU

Examiner

Akm Enayet Ullah

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

Detailed Action

Applicant cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Status of the Application

Claims 1- 30 are pending in this application.

This application is a CIP of 10/444,342 filed on 5/23/2005, which is now USP NO. 6,860,652.

If applicant is aware of any prior art or any other co- pending application not already of record, he/she is reminded of his/her duty under 37 CFR 1.56 to disclose the same.

If applicant provides prior art, he/she is requested to cite it on form PTO-1449 in accordance with the guideline set forth in MPEP 609.

Basis For Non-statutory Double Patenting – (Obviousness And Non-Obviousness Type)

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-30 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1- 30 of U.S. Patent No. 6,860,652.

Although the conflicting claims are not identical, they are not patentably distinct from each other because

Claims 1-2 of the instant application are identical of claim 1 of USP NO. 6,860,652. The only difference is the preamble of claim 1; recite "A low- profile package ----" and the USPNO. 6,860,652 recite as "A package adapted to ---".

Claim 4 of the instant applications is the same claim 2 of USP NO 6,860,652.

Claim 5 of the instant applications is the same claim 3 of USP NO 6,860,652.

Claim 6 of the instant applications is the same claim 8 of USP NO 6,860,652.

Claim 7 of the instant applications is the same claim 5 of USP NO 6,860,652.

Claim 8 of the instant applications is the same claim 7 of USP NO 6,860,652.

Claim 9 of the instant applications is the same claim 9 of USP NO 6,860,652.

Claim 10 of the instant applications is the same claim 10 of USP NO 6,860,652.

Claim 11 of the instant applications is the same claim 11 of USP NO 6,860,652.

Claim 12 of the instant applications is the same claim 12 of USP NO 6,860,652.

Claim 13 of the instant applications is the same claim 13 of USP NO 6,860,652.

Claim 14 of the instant applications is the same claim 14 of USP NO 6,860,652.

Claim 15 of the instant applications is the same claim 15 of USP NO 6,860,652.

Claim 16 of the instant applications is the same claim 16 of USP NO 6,860,652.

Claim 17 of the instant applications is the same claim 17 of USP NO 6,860,652.

Claims 19- 20 f the instant applications is the same claim 18 of USP NO
6,860,652.

Claim 21 of the instant applications is the same claim 19 of USP NO 6,860,652.

Claim 22 of the instant applications is the same claim 20 of USP NO 6,860,652.

Claim 23 of the instant applications is the same claim 21 of USP NO 6,860,652.

Claim 24 of the instant applications is almost same claim 24 of USP NO
6,860,652. The recitation of USP NO. 6,860,652 " the integrated circuit housed inside
the metal cover didn't mention in claim 24 which would be the inherent of the instant
claim.

Claim 25 of the instant applications is the same claim 26 of USP NO 6,860,652.

Claim 26 of the instant applications is the same claim 27 of USP NO 6,860,652.

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Claims 27-28 of the instant applications is the same claim 28 of USP NO 6,860,652.

Claim 29 of the instant applications is the same claim 29 of USP NO 6,860,652.

Claim 30 of the instant applications is the same claim 30 of USP NO 6,860,652.

In claim 3 of the instant application recites that wherein the metal member has a thickness ranging from approximately 0.5 mm to approximately 2 mm.

In claim 18 of the instant application recites that wherein the optoelectronic device is adapted to operate at a speed of at least 10Gbps.

In claim 30 of the instant application recites that wherein the sealing member has a thickness ranging from approximately 0.5 mm to approximately 2 mm.

First of all the metal member of claim 2 and the sealing member of claim 30 are same such as metal and also it is inherent teachings of the USP NO. 6,860,652. Similar comments apply for claim 30.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akm Enayet Ullah whose telephone number is 571 – 272- 2361. The examiner can normally be reached on Monday through Wednesday from 5:30 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick, can be reached on Monday through Friday whose telephone number is 571- 272- 2344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Akm Enayet Ullah
Primary Examiner
Art Unit 2874

Aullah

November 21, 2005